

The WTO and Sustainable Development



BY GARY P. SAMPSON

With a Foreword by WTO Director-General Pascal Lamy

The WTO and sustainable development

Gary P. Sampson



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1

Introduction and overview

Introduction

One of the potentially most important trade meetings in history took place in Doha, Qatar, from 9 to 14 November 2001, when a new round of multilateral trade negotiations – the Doha Development Agenda – was launched. At Doha, trade ministers told the world: “We strongly reaffirm our commitment to the objective of sustainable development ... We are convinced that the aims of upholding and safeguarding an open and non-discriminatory multilateral trading system, and acting for the protection of the environment and the promotion of sustainable development can and must be mutually supportive.”¹

Less than one year later, in September 2002, the World Summit on Sustainable Development (WSSD) – the largest intergovernmental meeting ever – took place in Johannesburg, South Africa. On this occasion, environment ministers called for urgent action to continue “to promote open, equitable, rules-based, predictable and non-discriminatory multilateral trading and financial systems that benefit all countries in the pursuit of sustainable development [and] support the successful completion of the work programme contained in the Doha Ministerial Declaration”. They “welcomed the decision contained in the Doha Ministerial Declaration to place the needs and interests of developing countries at the heart of the work programme of the Declaration”.²

My objective in this book is to review the relationship between trade policies as conducted in the World Trade Organization (WTO) and policies designed to promote sustainable development. Although many may understandably balk at the notion, I conclude that the WTO has unquestionably gravitated towards becoming a *World Trade and Sustainable Development Organization*. Some may or may not like this fact, but it is – by design or by default – a reality of the day.

In elaborating this proposition, we first need to address the questions of what trade policy is and which policies are designed to promote sustainable development. In broad terms, if trade policy is what the WTO deals with, then its objectives should offer some guidance as to the boundaries of trade policy. Its objectives are both ambitious and far-reaching: to raise standards of living and to ensure full employment and a steadily growing volume of real income with the expansion of world production and trade. Similarly, the WTO is to seek to protect and preserve the environment, and to enhance the means for doing so in a manner consistent with different levels of economic development. An additional responsibility assigned to the WTO compared with its predecessor, the General Agreement on Tariffs and Trade (GATT), is to provide for the optimal use of the world's resources in accordance with the objective of sustainable development.³

Convention has it that sustainable development means *securing a growth path where providing for the needs of the present generation does not mean compromising the ability of future generations to meet their own needs*. From a policy perspective, the pursuit of sustainable development requires a careful balancing between progress in each of its pillars: economic development; conservation of the environment; and improving social conditions.

The means available to the WTO to achieve its ambitious goals are the *liberalization* of trade and the conduct of trade according to multilaterally agreed *rules and procedures*. Both the liberalization of trade and the rules that govern trade have become inextricably linked with economic development, conservation of the environment and improving social conditions. In this respect, the working hypothesis of the WTO is that trade liberalization removes restrictions in the market, efficiently allocates resources and contributes to their optimal use. As a result, it increases production and income, promotes economic development, and makes more resources available for economic development, environmental management and improving social conditions. WTO rules ensure predictability and stability in a trading system based on, *inter alia*, non-discriminatory trading relations coupled with a powerful dispute settlement system. The conclusion is that both trade liberalization and trade rules are important contributors to sustainable development.

Despite the fact that there have been many contributions in both the theoretical and applied literature refining the definition of sustainable development, the concept remains somewhat vague – at least for providing a solid basis on which to identify policies to promote it. Setting the boundaries for the purposes of this book is therefore not a simple task. However, since the following chapters are about policy, one way to proceed is to consider the boundaries to be the policy issues addressed in the various forums devoted to sustainable development. Hundreds of government officials from diverse national administrations attended the World Summit on Sustainable Development in Johannesburg. The Declarations that emerged from the meeting identified and prioritized key issues. In addition, government officials regularly attend the meetings of the United Nations Commission on Sustainable Development and the United Nations Environment Programme and discuss the same or similar issues. Many specialized agencies of the United Nations – including multi-lateral environment agreements – deal directly or indirectly with many aspects of sustainable development, as does the International Labour Office. There is also a vast array of non-governmental organizations that focus on sustainable development⁴ and chambers of commerce that have business and sustainable development as their focus.⁵ Reviewing the issues that emerge in these deliberations in the light of the WTO work schedule provides useful insights into which policy issues deal with the interface between trade and sustainable development.

There is also guidance from academic circles. Although not necessarily addressed in the context of sustainable development, a great deal of intellectual activity has revolved around the extent to which there should be formal linkages between WTO rules and domestic policies relating to economic development, environmental management, labour standards and human rights. A key question that emerges in this debate is whether trade policy should be used as an instrument to promote sustainable development by obliging countries to adopt harmonized environment, labour and other standards in the conduct of international trade.⁶

Adopting this approach identifies a vast area of enquiry. The most important common area of policy concern for both trade and sustainable development is arguably the relationship between the trade liberalization successfully concluded under the GATT – and now the WTO – and economic development. Some remain unconvinced about the positive relationship, but the picture that increasingly emerges from empirical studies is that, although there are many influences bearing on economic growth, the adoption of liberal trade policies, through both expanded market access and domestic trade liberalization, generally promotes higher economic growth. The fact that trade is conducted according to enforceable rules on a non-discriminatory basis means that countries can pursue their

own domestic policies to achieve their own national goals without sanctions applied by others.

However, the WTO has greatly expanded its reach compared with the GATT. Its obligations are more intrusive and many issues not normally considered to be in the domain of trade policy are being dealt with by the WTO. These are many and varied. There are *negotiations* in the WTO on the role of fisheries subsidies in fish stock depletion, and on the relationship between WTO rules and multilateral environment agreements. There are *disputes* over endangered species, public health and genetically modified organisms. There are *Agreements* that deal with access to essential medicines and the patenting of life forms, and that have implications for the conservation of biodiversity. All of these matters find themselves squarely on the sustainable development agenda.

Yet sustainable development per se does not loom large on the agenda of the WTO. At most it is dealt with only obliquely.⁷ There may be a number of reasons for this. One is that sustainable development, because of its very nature, is dealt with in different ways in different forums. Being interdisciplinary, it finds itself – albeit it in a fragmented way – as part of the work programme of international lawyers, economists and political scientists. The same is true for government officials, who come from a variety of ministries in their national administrations. Institutionally, there is no overarching body in the WTO that addresses sustainable development. Moreover, little attention is paid to it by governments that pride themselves on the enforceability of the legal rights and obligations they have created; they do not wish to invest too heavily in a concept that appears vague and of little use in legally binding agreements. The implication is that, at most, sustainable development should appear in Preambular language or be included in Ministerial Declarations – as indeed it is. In addition, developing countries approach sustainable development in the WTO with mistrust. Its emphasis on intergenerational equity – prioritizing growth between present and future generations – has the potential to downplay the urgency of improving the distribution of income between the rich and the poor of world today. Also, if sustainable development means focusing on environmental or labour standards, it could bring a new form of conditionality to world trade. Developing countries strongly resist its inclusion in the WTO on these grounds.

Many of the issues that now confront the WTO and are also firmly on the sustainable development agenda are the result of a conscious policy on the part of members to expand the reach of the WTO. Many other issues, however, have gravitated to the WTO on a de facto basis, and some people question whether the WTO is the appropriate body to be dealing with such matters. Even if it is, does it have the capacity to deal with them? It already has an overloaded agenda and other institutions

have the skill and expertise to deal with such matters. My own experience is that those involved in various fields of policy-making have very different views as to what the WTO should be.⁸ This lack of clarity about the role of the WTO has led to controversy.

The WTO is fiercely criticized by those who argue that its rules constitute an unwanted intrusion into the domestic affairs of sovereign states. For example, the rules impede the proper workings of democratically elected governments by denying them the possibility to discriminate in trade against goods produced in an environmentally unfriendly manner or without respect for core labour standards or universally accepted human rights. The reach and power of the WTO should therefore be *shrunk*. Others take the opposite view and even consider that new subject areas, such as the critical areas of competition policy, investment and government procurement, should be added to the existing WTO agenda (as was the case in the Uruguay Round with intellectual property and trade and services).

There are also those who think that the reach of the WTO should not only be extended horizontally but also be deepened. The trade community should accept that social norms are inextricably linked with the international economic system and provide the common moral and legal underpinnings for the formulation of policies relating to development, the environment and social objectives. Integrating social norms into all aspects of economic policy-making – including trade policy – would ensure that markets are not only open and efficient, but also fair and just.

Indeed, there are those who defend the organization on the basis of its past performance, and on these grounds wish to maintain the status quo. They argue that the multilateral trading system at the beginning of the twenty-first century is the most remarkable achievement ever in institutionalized global economic cooperation.⁹ It does not intrude on national sovereignty as charged. On the contrary, it protects weaker countries by preventing more powerful countries from unilaterally imposing their preferred social and political standards via trade sanctions. WTO rules prevent powerful countries riding roughshod over less powerful ones, and ensure the policy space for other multilateral treaties to be negotiated to deal with environmental and social matters. Viewed through this prism, the concepts, principles and rules of the WTO should be consolidated through experience – and not shrunk or further stretched in any direction.

At the heart of these issues is the question of what role should be assigned to the WTO in relation to sustainable development. Could the WTO be rendered more useful in promoting sustainable development by enforcing – or even creating – standards that achieve social and environmental goals? This raises fundamental questions with respect to na-

tional sovereignty vis-à-vis international obligations. From a national sovereignty perspective, it is clearly important that WTO member governments retain the policy autonomy to implement whatever measures are necessary to achieve developmental, environmental and social goals. At the same time, from a trade policy perspective, market access rights obtained through bound liberalization commitments should not be undermined by what are paraded as legitimate measures in the pursuit of national policies. A key responsibility of the WTO as a *trade* organization is to police the use of disguised restrictions on trade to undermine negotiated commitments.

Although legitimizing discrimination on the basis of how goods and services are produced would profoundly change the nature of the WTO, it is precisely here that the greatest pressure is brought to bear on the WTO to create linkages with non-traditional trade areas. Trade measures to enforce environmental or labour standards where neither such standards *nor* trade measures have been agreed to by all affected parties are considered by many to be an infringement of national sovereignty and not to be the proper role of a trade organization. Yet the thought of importing goods that have degraded the environment, accelerated the extinction of endangered species, or been produced with child labour is clearly anathema to many. The question is not whether such matters should be dealt with at the international level; the controversy turns on whether the WTO is the appropriate body to deal with them.

Some argue that there currently exists a strong multilateral rules-based trade regime, attained through the WTO, which is essential to developing a system of governance of global markets. It is reasoned that the trading system cannot act in isolation when there exists a wide variety of issues that rightfully belong on the trade agenda. In my view, a strong argument can be made that a trade policy organization such as the WTO should not be responsible for many of the non-conventional trade issues that are gravitating towards it. The United Nations and its specialized agencies are charged with advancing the pillars of sustainable development, and a case can be made that these institutions should be strengthened and given the resources they need to carry out their tasks successfully, so that the WTO does not have to deal with the wider agenda that it now seems to be acquiring.

But this is most unlikely to happen. Putting it bluntly, there is not the same willingness as in the WTO to forgo national sovereignty and accept strong compliance mechanisms in treaties negotiated under the auspices of the United Nations and its specialized agencies. This fact has been lamented on a number of occasions by Kofi Annan, the Secretary-General of the United Nations, as well as by the heads of United Nations agencies.¹⁰ It should also be lamented by the WTO, if for no other reason

than self-interest. If the political will is lacking to strengthen the United Nations specialized agencies, the implications may be an even wider gap to be filled by the WTO.

A basic premise in what follows is that governments should be free to pursue their own policies without other countries imposing their preferences through trade sanctions. The WTO is a trade organization and was not conceived of as an environment or labour organization. Had it been, it would not have the 150 members it has at present. The WTO can best fulfil its role by maintaining clear and fixed legal rights relating to market access commitments, coupled with flexible procedures under which governments can negotiate for the modification of legal commitments when they wish to accommodate more important social policies. Nowhere is this clearer than in the interface between trade and sustainable development.

So where does all this take us in terms of policy? To my mind, there are two important questions. What is in reality the *current role* of the WTO in matters relating to sustainable development? And what is the *proper role* of the WTO in the pursuit of sustainable development? Addressing these two questions raises a number of important policy considerations. The objective of this book is to identify them, explore them, and make policy recommendations that are both ambitious and realistic.

In doing so, I do not advocate a greater role for sustainable development in the WTO in terms of the legal rights and obligations of members. What I contend is that, as a minimum, there should be a stocktaking of the issues that characterize the interface between trade and sustainable development. Thus, an important objective of this book is to present an inventory of issues that could represent an agenda for such a stocktaking. My intention is not only to draw attention to the fact that the WTO in reality deals with many issues relating to sustainable development, but also to make policy suggestions about how they could be dealt with. To my mind, viewing the activities of the WTO through the prism of sustainable development throws light on a number of policy options available to WTO members in some of the most challenging areas it deals with.

In the absence of such an approach, the criticisms that the WTO now faces will in large measure remain linked to the many different perceptions of what is the proper role of trade policy in the global economy. In the broadest perspective, in a perfect world, meeting the challenges facing the global economy requires a coherent approach and institutional structure at the global level. This means the existence of institutions that determine the substantive policies and public processes with a clear delineation of the responsibilities of the various actors involved, that are mutually consistent and supportive, and that operate in an effective, accountable and legitimate manner. The fact of the matter is that there is

no world government to determine the appropriate division of labour among existing multilateral institutions, or to decide when new organizations need to be created or existing ones closed down. Thus, the goals of the institutions should be to facilitate the attainment of agreed policy objectives through cooperation, while providing for the avoidance and resolution of any disputes that may arise in the pursuance of these objectives.

Overview

The intention of this book is of course not to address all issues where trade and sustainable development policies intersect. This would be an impossible task. Not all readers will agree on the issues I have chosen, and many may have different views on those that are dealt with. Although some topics are obvious candidates, others are not. One obvious candidate, for example, is the work in the WTO Committee on Trade and Environment, which is specifically mandated in its terms of reference to take into account sustainable development. So too is the work of the Committee on Trade and Development. Other issues are of importance, but of a different nature. For example, I take up the arguments that the WTO is undemocratic, non-transparent and non-accountable to the public because these criticisms are frequently advanced by institutions dealing with sustainable development.

Another consideration is that, of the three pillars of sustainable development (economic development, the environment and considerations such as human rights and labour standards), I pay more attention in the following chapters to the environment and to development. Both have a tradition of being dealt with systematically in the GATT and WTO. Whereas Committees on Trade and Environment, as well as Trade and Development, have existed in the GATT or WTO for some years, there are no committees on trade and labour standards, human rights, public health or, for that matter, sustainable development. Nevertheless, even in the absence of WTO committees dedicated to particular issues, many issues of social concern emerge in other WTO forums. These too will be addressed. Examples include access to essential medicines and sharing the benefits of traditional knowledge in the Committee on Trade-Related Aspects of Intellectual Property Rights, fisheries subsidies in the Rules Committee, eco-labelling in the Technical Barriers to Trade Committee, protection of public health in the Sanitary and Phytosanitary Committee, and endangered species and public health in the dispute settlement process.

This book is directed to those in the trade community and those with a direct interest in sustainable development. It is interdisciplinary and

deals with both economic and legal issues, and the implications of the conclusions are important for international relations. It also aims to be educative in approach, in the sense of raising questions, identifying issues and proposing solutions to them. For this reason, parts of the book may contain more detail than is necessary for those with a specialized knowledge of the particular topic. For example, environmentalists may be familiar with multilateral environment agreements (MEAs) and the workings of institutional considerations relating to environmental governance, and those more interested in trade may be familiar with multilateral trade institutions and specific accords such as the General Agreement on Trade in Services, all of which are discussed in detail.

The orientation of the book is towards making useful policy suggestions. Some come in the form of specific proposals; others assign a priority to questions to be addressed in present and future negotiations; some just raise issues. Where policy conclusions are drawn, the intention is to be both ambitious and realistic at the same time – in other words, to take into account the substance as well as the political and institutional realities that would bear on the acceptability of the proposals. This approach is built on the knowledge, for example, that proposals involving a change in the rights and obligations of WTO members are difficult to secure. WTO members have reached agreement on the basis of a balance of rights and obligations. Upsetting this balance might well require renegotiation of other Agreements, and even ostensibly minor changes in rules can result in unachievable outcomes. Negotiators rarely make concessions to negotiating partners without extracting some return payment, so a snowballing effect is often the pattern. The outline of the book is as follows.

In chapter 2, I review institutional efforts at the intergovernmental level over the past 50 years to address one of the key aspects of sustainable development – namely environmental management. I trace the policy orientation to the trade and environment debate in the GATT and then the WTO. I reason that at the time of its creation, and for the following decades, the GATT was concerned with environmental measures primarily as potential barriers to market access. Although, over time, the complexity of the trade and environment issues confronting the GATT increased greatly, the general approach adopted by the GATT was carried over to the WTO. The nature of the environment-related issues now under consideration at the WTO has certainly broadened well beyond the original concerns about the environment. The issues extend to discrimination among imports on the basis of environmental standards, seen as a precursor to discrimination based on standards including labour or human rights, and questions relating to extra-territoriality have moved onto centre stage through dispute settlement

rulings. Most importantly, I conclude that the approach of the WTO towards the environment and other aspects of sustainable development still reflects a concern over the potential use of trade measures as barriers to trade, although clearly the emphasis is on the manner in which trade and the environment can be mutually supportive. Trade liberalization can improve resource allocation, increase growth and make more resources available to improve the environment. The challenge is how to operationalize these relationships.

Chapter 3 investigates in greater detail how the link between trade liberalization and sustainable development has been dealt with in the WTO from a substantive perspective. Although I acknowledge the role of trade liberalization in promoting growth, the focus of the chapter is on the relationship between trade liberalization and sustainability assessment scenarios, as well as on win-win scenarios – how to reap the benefits from removing trade restrictions and distortions that damage the environment, and how the removal of trade barriers could improve market access opportunities for developing countries in the same sectors. Examples include the environmental benefits that accrue from the removal of agricultural subsidies (which lead to an excessive use of fertilizers), or of fisheries subsidies (which lead to overcapacity of the fishing fleets and to fish stock depletion). In both cases the removal of subsidies could result in expanded export earnings for developing countries. I place particular emphasis on the fishery sector because it provides a useful case study. It shows, among other things, the constructive role that public interest groups can play in highlighting issues and information that are crucial to activate and support the negotiating process in the WTO. These efforts have surely contributed to this sector being a focus of attention and singled out for special treatment by governments in the Doha Development Agenda.

In chapter 4, I address a number of provisions in the WTO Agreements – most notably the GATT-1994 – that have a particular relevance for sustainable development. I focus on non-discrimination and how it has been interpreted in recent contentious dispute settlement rulings. A number of important questions arise as to the true purpose of certain trade measures and the grounds on which some measures that are important for sustainable development can be considered necessary to achieve a certain policy goal. Is the aim and effect of the measure to renege on legally binding market access commitments that the WTO is bound to protect, or does it pursue a legitimate policy goal without being unnecessarily trade restrictive? The importance of this chapter is underscored by the fact that it examines the extent to which WTO provisions circumscribe the policy options available to national governments in pursuing sustainable development. What becomes apparent in this exercise

is the extent to which a number of the key terms in the WTO Agreements are open to interpretation, and the importance this has for policies relating to sustainable development. I review some selected dispute rulings and conclude that how sustainable development is dealt with in the future is in many ways in the hands of WTO Panels and the Appellate Body.

Chapter 5 addresses the implications for the WTO of the growing consumer demand for improved product and service standards that has come with higher income levels. The result is a growing number of increasingly sophisticated technical regulations and standards defining specific characteristics of a product: its size, shape, design, functions and performance, or the way it is labelled or packaged before it is put on sale. Governments are free under the WTO to limit the import of certain goods in order to protect public health, safety and the environment through the enforcement of mandatory standards to which imported goods must conform. However, for the WTO to fulfil its role as a trade body, such standards should be no more restrictive than necessary to achieve the legitimate purpose and should not undermine market access commitments. In other words, these regulations should not be designed to impede the free flow of trade. Distinguishing which measures are designed to implement legitimate policy choices and which are unnecessary obstacles to trade places the WTO in an increasingly difficult situation as the sophistication of regulations increases.

Because the WTO and the MEAs represent two different bodies of international law, it is important for the relationship between them to be coherent and fully understood by all concerned. This is not currently the case and chapter 6 discusses the potential problems of any clash between the two global regimes. To remove this possibility, and to avoid the WTO being the arbiter of environmental disputes, requires effective MEAs characterized by clearly specified trade measures that may be taken for environmental purposes, broad-based support in terms of country membership and a robust dispute settlement system.

Chapter 7 also deals with a controversial issue. Few topics generate as much public agitation as recent developments in biotechnology. Although gene modification has been with us since time immemorial, public sentiment has changed with the introduction of genetic engineering, which permits the transfer of genetic material between organisms that would never be able to breed in the natural environment. The regulation of living genetically modified organisms (GMOs) and products derived from them provides an excellent case study of how issues of central importance to sustainable development can find themselves on the WTO agenda. This has not been by design, but rather through the normal application of WTO rules and agreements crafted well before the concerns

relating to biotechnology emerged. Issues relating to biotechnology enter the WTO stage due to market access considerations (restrictions on the cross-border movement of living GMOs and food products derived from them), ethical considerations (the patenting of life forms), equity considerations (access to essential medicines), and many others.

Chapter 8 deals with the WTO General Agreement on Trade in Services (GATS). This Agreement is the result of the Uruguay Round and therefore a relatively new addition to the body of international trade law. It is far from being a user-friendly agreement, and it has become the target of attack by those who see it as a vehicle for the privatization of government-owned activities, such as water supply and other public utilities, health services and education. They believe it will lead to the deregulation of services activities more generally. I argue that the GATS contains very few compulsory obligations, and additional obligations are undertaken at the discretion of the importing country. To provide a clearer understanding of how intrusive the GATS is – or is not – when it comes to domestic policy formulation, I offer a more analytical explanation of the Agreement than one would get from a simple reading of the text.

In chapter 9, I trace the manner in which developing countries' concerns about the multilateral trading system have been dealt with, from the early days of the GATT to the present. My starting point is that the WTO system should provide the legal flexibility for developing countries to implement the most appropriate development strategies, although this begs the question of what is an appropriate development strategy for a developing country. There are very different views in this respect. I conclude that development strategies and legal flexibilities should reflect the very diverse nature of developing countries' economies, resource endowments, institutions, and other national characteristics. I fully appreciate the desire of many developing countries to continue the current *generic* approach of special and differential treatment while maintaining self-selection in the absence of graduation. I document the WTO processes surrounding the negotiation of special and differential treatment with the intention of gaining insights into the complex, time-consuming and frustrating nature of WTO negotiations.

Chapter 10 looks at the changing importance of the WTO and how perceptions of its role in global affairs have evolved over time. I also address charges that the WTO is undemocratic, non-transparent and non-responsive to the needs of the citizens of its member countries. Too frequently, the WTO's critics fail to register that the WTO is in fact composed of 150 governments acting in accordance with multilateral rules that have been adopted on a consensus basis.

Chapter 11 turns to one of the important features of the World Summit

on Sustainable Development – the search for a more coherent system of global governance in order to deal effectively with sustainable development at the global level. There have been many proposals over the years as to how this can be achieved, not the least important being the call for a World Environment Organization on a par with the World Trade Organization. In this chapter, I look at the functioning of the WTO and address the question of whether or not it is a useful model for a WEO. If it is not, can useful lessons be learned from a close examination of the key characteristics of the WTO?

In the final chapter of the book I look at the need for greater coherence in global policy-making and at developments in this respect within the WTO in the past. I draw attention to the fact that, whereas governments have seen a need for greater coherence in policies between the WTO, the World Bank and the International Monetary Fund, similar attention has not been given to coherence in the relationship between the WTO and the specialized agencies of the United Nations. I advance a number of policy proposals, starting from the basic proposition that, by identifying issues in a “bottom-up” manner, solid foundations can be built for a more coherent system of global governance in relation to sustainable development. In the bigger picture, however, the chapter returns to the question of the role of the WTO in global governance.

Notes

1. See WTO, *Doha Declarations: The Doha Development Agenda*, Geneva: WTO Secretariat, 2001, para. 6.
2. WTO, *Report of the World Summit on Sustainable Development*, Geneva: WTO Secretariat, WT/CTE/W/220/Rev.1, 20 December 2002, para. 47 (a).
3. The objectives of the WTO are spelled out in the Preamble to the Agreement Establishing the World Trade Organization. This and the texts of the Agreements and other legal instruments for which the WTO is responsible can be found in World Trade Organization, *The Results of the Uruguay Round of Multilateral Trade Negotiations: The Legal Texts*, Geneva: WTO Secretariat, 1994. The contents of this volume will be referred to as the WTO Agreements in what follows. Another important point for the following is that the GATT no longer exists as an institution; its functions have been taken over by the WTO, which entered into force in January 1995. The original GATT (referred to as the GATT-1947) lives on as part of the Uruguay Round Agreements in an updated form as the GATT-1994. In what follows, the governments that constitute the membership of the WTO will be referred to as the WTO members. For convenience and consistency, the GATT contracting parties (the usual terminology) will be referred to as GATT members.
4. The Canadian International Institute for Sustainable Development is one example. Others, for example the International Centre for Trade and Sustainable Development in Geneva, focus even more finely on *trade* and sustainable development and consequently have the WTO as their primary focus.

5. Examples include the World Business Council on Sustainable Development and the International Chamber of Commerce.
6. See, in particular, Jagdish Bhagwati and Robert H. Hudec, *Fair Trade and Harmonisation*, vols I and II, Cambridge, MA: MIT Press, 1997.
7. As noted, sustainable development is an objective identified in the Preamble to the Agreement Establishing the WTO. It is referred to in the terms of reference of the Committee on Trade and Environment and in the Appellate Body ruling in the *Shrimp-Turtle* case. It appears from time to time in WTO Ministerial Declarations, including the Doha Development Agenda.
8. In the course of research carried out under a project funded by the Ford Foundation, a number of prominent personalities responded positively to a request to offer their views on the role of the WTO in global governance. These views were on occasion very different. They are published in Gary P. Sampson (ed.), *The Role of the WTO in Global Governance*, Tokyo: United Nations University Press, 2000.
9. See Martin Wolf, "What the World Needs from the Multilateral Trading System", in Sampson (ed.), *The Role of the WTO in Global Governance*, chapter 9.
10. Kofi Annan, "Foundations for a Fair and Free World Trade System", in Sampson (ed.), *The Role of the WTO in Global Governance*, chapter 1.

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The WTO and Sustainable Development

Gary P. Sampson

The WTO has evolved into a World Trade and Sustainable Development Organization and many issues now on its agenda are far from traditional trade policy matters. Some have already proven to be particularly controversial and there is much more controversy to come.

"The WTO simply cannot ignore the need to promote and preserve the environment. The priority must be to re-balance the international trade system in favour of developing countries. [This book] is a crucial first step in identifying and exploring the issues that fall under the umbrellas of sustainable development and the expanded agenda of trade policy. A crucial question is whether a clearer mission for the WTO in support of sustainable development implies major institutional reforms. I do not think so. To surmount the difficulties confronting the WTO, it must adapt. But the fundamental objective of the WTO has to remain the construction of fair trade rules to guarantee better, more long-lasting, more predictable and more transparent trade opening."

– From the Foreword by **Pascal Lamy, WTO Director-General and former European Union Commissioner for Trade (1999–2004)**

"Professor Gary Sampson ... identifies an inventory of policy issues that fall within the overlap between trade and sustainable development, and analyses the implications of this overlap. He also presents policy options that are both ambitious and realistic, the pursuit of which could contribute to more coherent and mutually supportive action on the part of governments to both trade and sustainable development. This book is a useful contribution to the literature and should be of interest to a large part of the international community, including government officials, academics, the business community, and both intergovernmental and non-governmental organizations."

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"Professor Gary Sampson's analysis ... is sharp and his suggestions are full of wisdom. I regard this book to be a very important contribution to the study of the WTO."

– **Mitsuo Matsushita, founding member of the WTO Appellate Body**

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